

Serial No.: 10/539,777
Atty. Docket No.: P70648US0

REMARKS

The Office Action mailed February 19, 2008, has been carefully reviewed and Applicant notes with appreciation the identification of allowable subject matter.

By this Amendment, Applicant has amended claims 1-19 and added claim 10. Claims 1-20 are pending in the application. Claim 1 is independent.

The Examiner objected to the abstract and required a new abstract which Applicant has attached to this Amendment.

The Examiner objected to the spacing of the application as being difficult to read and required that Applicant submit new application papers. Accordingly, Applicant has prepared a substitute specification which is filed herewith, along with a marked-up copy thereof showing changes made to the specification with respect to the application as originally filed. No new matter has been added. Entry thereof is requested.

The Examiner objected to the drawings as not showing reference numeral 10. Reference numeral 10 has been deleted from the specification such that no changes to the drawings are necessary. Withdrawal of the objection is requested.

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The Examiner objected to claims 1-19 as containing informalities which Applicant has corrected by the amendments presented herein.

The Examiner rejected claims 1-5, 8, 13 and 15-16 under 35 U.S.C. 102(b) as being anticipated by WO 02/36192 to Bolmsjö. Under 35 U.S.C. 103(a), the Examiner rejected claims 6 and 7 as being unpatentable over Bolmsjö in view of U.S. Patent No. 6,231,564 to Gambale, and rejected claims 9-12, 14 and 17 as being unpatentable over Bolmsjö in view of U.S. Patent No. 5,562,622 to Tihon. The Examiner objected to claims 18 and 19 as being dependent on a rejected base claim but stated that claims 18 and 19 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

While Applicant appreciates the indication of allowable subject matter, with the amendments set forth herein, claim 1 is also in condition for allowance as supported by the following remarks.

As set forth in amended claim 1, the present invention is directed to a device for opening a human bladder that includes an oblong member for opening the urethral sphincter and configured to drain fluid from the bladder, and a guide member for manipulating

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the oblong member. At least a part of the guide member is made of an elastically deformable material that is flexible enough to be bent into a first configuration that can then be unfolded into a second configuration in which the guide member is sufficiently rigid to allow it to be used to insert the oblong member into a urinary tract without buckling under the longitudinal pressure associated with insertion (see page 10, lines 20-25 of the original Specification; paragraph [0027] of the Substitute Specification). Once the oblong member has been inserted through the sphincter by the guide member, the urine is able to flow through the remaining part of the urethra without difficulty. As such, the claimed device is well suited for use as a regular, but intermittent catheter, i.e., one that is inserted when needed and then removed once the bladder has been emptied. This structure and function is not shown by the prior art.

Bolmsjö discloses an indwelling catheter that is stored in the user's bladder for an extended period of time, such as two weeks. The indwelling catheter includes a draining body or oblong member 10 which is inserted into the bladder by an introducing member 19. The body 10 is made of a flexible rod that naturally assumes a contracted or rolled up form as shown in Figure 2. By

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applying drawing pressure on the body, the body can be made to assume an extended form, but the draining body 10 has a built-in spring momentum that pulls it back to its contracted position when the drawing pressure is removed (see page 6, lines 8-12; page 7, lines 11-20). A thread or guide member 14 is attached to the end of the draining body 10 and extends out through the urethra. When the user needs to urinate, he pulls on the thread which draws the end of the drainage body down into the neck of the bladder and past the prostate as shown in Figures 9 and 10 to create a canal through which the bladder may be emptied (see page 10, lines 24-31). Once urination is complete, the thread or guide member 14 is released and the drainage body 10 slowly returns to its contracted position (see page 11, lines 1-3).

Clearly, the guide member 14 of Bolmsjö cannot be used to insert the oblong member or drainage body 10 into a urinary tract as claimed by the present invention. Instead, the guide member of thread 14 is very flexible so as to be unobtrusively "worn" by the user for an extended period, e.g., weeks, so as to be used to elongate the body 10 when urination is necessary. Furthermore, the actual introducing member 19 taught by Bolmsjö for inserting the body 10 has to be stiff enough to hold the drainage body in its

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extended position without bending, and thus cannot be flexible enough to be bent into a first configuration as claimed.

Finally, the different purpose of Bolmsjö as an indwelling catheter would not provide any suggestion to a person skilled in the art that the thread 14 should be made rigid enough to effect insertion of the drainage body 10.

For at least the foregoing reasons, claim 1 is patentable over the prior art. Favorable reconsideration and allowance thereof is requested, along with claims 2-20 dependent thereon.

With this amendment and the foregoing remarks, it is respectfully submitted that the present application is in condition for allowance. Should the Examiner have any questions or comments, the Examiner is cordially invited to telephone the undersigned attorney so that the present application can receive an early Notice of Allowance.

Respectfully submitted,

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